

REMARKS

Favorable reconsideration of this application is respectfully requested.

Claims 1, 5, 8, 9, 13, 16, 17, 21, 24, 25, 29, and 32 are pending in this application.

Claims 6, 7, 14, 15, 22, 23, 30, and 31 are canceled by the present response without prejudice.

Initially, applicants note the Terminal Disclaimer over U.S. patent 6,662,225 was inadvertently not filed with the prior response to address the previously presented rejection of claims 1-32 under the judicially created doctrine of obviousness-type double patenting. To correct for that oversight applicants submit herewith a Terminal Disclaimer over U.S. patent 6,662,225 and thank the Examiner for bringing that oversight to applicants' attention.

Claims 1 and 5-8 were rejected under 35 U.S.C. §101. Claims 1, 5, 6, 8/1, 8/5, 8/6, 9, 13, 14, 16/9, 16/13, 16/14, 17, 21, 22, 24/17, 24/21, 24/22, 25, 29, 30, 32/25, 32/29, and 32/30 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 6,202,199 to Wygodny et al. (herein "Wygodny") in view of U.S. patent 6,345,306 to Hintermeister et al. (herein "Hintermeister") and Official Notice. Claims 7, 8/7, 15, 16/15, 23, 24/23, 31, and 32/31 were noted as allowable if rewritten to overcome the obviousness-type double patenting rejection, the rejection under 35 U.S.C. § 101, and to include all of the limitations of their base claim and any intervening claims.

Initially, applicants gratefully acknowledge the indication of the allowable subject matter.

Addressing first the above-noted prior art rejection, that rejection is obviated by the present response. Specifically, the claims are amended by the present response to recite subject matter indicated as allowable in the outstanding Office Action. Independent claim 1 is amended by the present response to now incorporate limitations from previously pending dependent claim 7, and thus now presents subject matter indicated as allowable in the

outstanding Office Action. The other independent claims are also similarly amended to recite subject matter indicated as allowable in the outstanding Office Action. Thus, the above-noted prior art rejection is traversed.

Addressing now the rejection of claims 1 and 5-8 under 35 U.S.C. § 101, that rejection is traversed.

Applicants submit claims 1 and 5 clearly recite a concrete element in reciting “an operation panel of an image forming device, the operation panel comprising a plurality of operations to be selected by a user”, which applicants submit is clearly a structural element that can not be comprised entirely of software. It must be the case that if an operation panel includes operations to be selected by a user, there must be a tangible aspect to the operation panel. Pure software without any other machine could not have operations selected by a user.

In maintaining the outstanding rejection the outstanding Office Action states:

Applicants have argued that “an operation panel of an image forming device” is a “concrete element.” However, an operation panel could be a graphical user interface (GUI), and is therefore interpreted to include an operation panel created entirely in software. Also, a monitoring unit is not restricted to a hardware component, and can therefore be implemented entirely in software.<sup>1</sup>

In response to the above-noted basis for the outstanding rejection, applicants submit that a GUI that has a plurality of operations to be selected by a user cannot be created entirely in software. If a user can select operations on a operation panel of an image forming device, a concrete element must be present.

Applicants also traverse the position that a graphical user interface can be created entirely in software. Obviously a graphical user interface is programmed in software, but must have a concrete manifestation if it is to be an interface. In other words, for something to be created entirely in software implies merely software code in the abstract. However, a

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<sup>1</sup> Office Action of March 23, 2006, middle of page 4.

graphical user interface clearly must have a way of being seen and interacted with by a user, hence the term interface.

In any event, applicants respectfully submit that in no reasonable way can “an operation panel of an image forming device, the operation panel comprising a plurality of operations to be selected by a user” be viewed as a device made entirely in software.

Further, applicants respectfully submit that even if that was the case, the claims set forth a system with concrete, tangible, and useful results. The claims set forth monitoring how a user selects operations on an interface, and communicating a log of that monitored data. The log of the monitored data clearly generates a concrete, useful, and tangible result.

In such ways, applicants respectfully submit claims 1 and 5 clearly set forth statutory subject matter under 35 U.S.C. § 101.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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